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OFFICE OF PETITIONS

In re Application of : DECISION REFUSING STATUS
Mahany, et al. : UNDER 37 CFR 1.47(a)
Application No. 10/646,318 : AND DISMISSING PETITION
Filed: August 22, 2003 : UNDER 37 CFR 1.48
Atty. Dkt. 14366US02 :
:

This decision is in response to the renewed petitions under 37 CFR 1.48 and 37 CFR 1.47(a), filed August 11, 2005.

DECISION UNDER 37 CFR 1.47(a)

Petitioners herein seek to amend the above-identified application to include Keith Cargin, however, petitioners' allege that Cargin has refused to sign an oath.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Decision under 37 CFR 1.47 is hereby HELD IN ABEYANCE until such time as the requirements of 37 CFR 1.48 are satisfied.

DECISION UNDER 37 CFR 1.48(a)

Petitioners herein request correction of the inventorship of the instant application.

Correction of inventorship pursuant to 37 CFR 1.48(a) requires: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR §§ 1.42, 1.43 or 1.47; (4)

the processing fee set forth in 37 CFR 1.17(i); and (5) if an assignment has been executed by any of the original inventors, the written consent of the assignee.

The instant petition fails to satisfy requires (2) and (3) set forth above.

As to item (2), the requirement for a statement from the person being added has not been satisfied. Accordingly, any renewed petition under 37 CFR 1.48 must be accompanied by the required statement or petition for waiver of the required statement under 37 CFR 1.183.

As to item (3), a fully executed oath or declaration has not been submitted. In order to satisfy the oath or declaration of 37 CFR 1.63, petitioners are required to present a fully executed oath or declaration or a grantable petition under 37 CFR 1.47.

For the reasons set forth herein, the petition under 37 CFR 1.48(a) is **DISMISSED**.

Petitioner is given **TWO (2) MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
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By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
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Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.



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